

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
WACO DIVISION**

**CYBOENERGY, INC.,**

**Plaintiff,**

**v.**

**ALTENERGY POWER SYSTEM  
USA, INC.,**

**Defendant.**

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**CAUSE NO. WA-22-CV-1136-KC**

**ORDER ADOPTING REPORT AND RECOMMENDATION  
OF THE MAGISTRATE JUDGE**

On this day, the Court considered the case. On October 10, 2023, the Court referred claim construction proceedings in the case to United States Magistrate Judge Derek T. Gilliland pursuant to 28 U.S.C. § 636(b). Oct. 10, 2023, Order, ECF No. 35. The Magistrate Judge conducted a *Markman* hearing on December 8, 2023. *See* Min. Entry, ECF No. 43. And on December 20, 2023, the Magistrate Judge filed a Report and Recommendation on Claim Construction (“R&R”), ECF No. 44. The R&R recommends that the Court construe each of the contested terms consistent with their plain meanings. *See* R&R App. A.

Parties have fourteen days from service of a Report and Recommendation of a United States Magistrate Judge to file written objections. *See* 28 U.S.C. § 636(b)(1)(C).<sup>1</sup> Over fourteen days have elapsed since all parties were served with the R&R, and no objections have been filed.

When parties do not file written objections, courts apply a “clearly erroneous, abuse of discretion and contrary to law” standard of review to a report and recommendation. *United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989). After reviewing the R&R, the Court

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<sup>1</sup> Federal district courts conduct de novo review of those portions of a report and recommendation to which a party has objected. *See* 28 U.S.C. § 636(b)(1)(C) (“A judge . . . shall make a de novo determination of those portions of the report . . . to which objection is made . . .”).

concludes that the Magistrate Judge's proposed findings of fact and conclusions of law are neither clearly erroneous nor contrary to law. *See id.* at 1221.

Accordingly, the Court **ADOPTS** the R&R, ECF No. 44, in its entirety.

**SO ORDERED.**

**SIGNED this 5th day of January, 2024.**

  
KATHLEEN CARBONE  
UNITED STATES DISTRICT JUDGE